

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PHYLLIS WRIGHT, Derivatively on Behalf of
MACQUARIE INFRASTRUCTURE
CORPORATION,

Plaintiff,

v.

LIAM STEWART, JAY A. DAVIS, RICHARD
D. COURTNEY, MARTIN STANLEY,
NORMAN H. BROWN, JR., GEORGE W.
CARMANY, III, H.E. LENTZ, OUMA
SANANIKONE, RONALD KIRK, JAMES
HOOKE, and WILLIAM H. WEBB,

Defendants,

-and-

MACQUARIE INFRASTRUCTURE
CORPORATION, a Delaware corporation,

Nominal Defendant.

Case No. 1:18-cv-07174

**STIPULATION AND ~~PROPOSED~~
ORDER**

Nominal defendant Macquarie Infrastructure Corporation ("Macquarie" or the "Company"), and individual defendants Liam Stewart, Jay A. Davis, Richard D. Courtney, Martin Stanley, Norman H. Brown, Jr., George W. Carmany, III, H.E. Lentz, Ouma Sananikone, Ronald Kirk, James Hooke, and William H. Webb ("Individual Defendants," and together with Macquarie, "Defendants") together with Phyllis Wright ("Plaintiff," and together with Defendants, "Parties"), hereby respectfully move the Court for entry of an order temporarily staying the above-captioned action ("Stay Stipulation"). In support of this Stay Stipulation, the Parties state as follows:

WHEREAS, on August 9, 2018, Plaintiff filed a complaint in this Court, Case No. 1:18-cv-01492, against Defendants, who are certain current and former directors and officers of

nominal defendant Macquarie, including all members of Macquarie's board of directors as of August 9, 2018 (the "Derivative Action");

WHEREAS, request for waiver of the service of summonses per rule 4(d)(1)(F) of the Federal Rules of Civil Procedure were sent on September 7, 2018, which were subsequently returned signed by the undersigned counsel for the Individual Defendants without prejudice to any Individual Defendant's right to assert lack of personal jurisdiction (as opposed to insufficiency of service) as a defense, and their response is due November 7, 2018;

WHEREAS, a request for waiver of service of summons per rule 4(d)(1)(F) of the Federal Rules of Civil Procedure was sent to undersigned counsel for the Company, a nominal defendant, on September 17, 2018, and their response is due November 16, 2018;

WHEREAS, on April 23, 2018, plaintiff City of Riviera Beach General Employees Retirement System filed a class action alleging violations of federal securities laws (Case No. 1:18-cv-03608) (the "*Riviera* Action"); and on April 27, 2018, plaintiff Daniel J. Fajardo filed a related class action alleging violations of federal securities laws (Case No. 1:18-cv-03744) (the "*Fajardo* Action," and with the *Riviera* Action, the "Federal Securities Actions");

WHEREAS, Plaintiff filed a statement of relatedness to the lower-numbered of the Federal Securities Actions, the *Riviera* Action;

WHEREAS, the Federal Securities Actions and this Derivative Action arise out of substantially similar operative facts, as both actions allege that the Individual Defendants made false and misleading statements on behalf of the Company concerning utilization and profitability of the Company's International-Matex Tank Terminals subsidiary;

WHEREAS, motions for consolidation and appointment of lead plaintiff and lead counsel in the Federal Securities Actions are currently pending before the Honorable Vernon S. Broderick;

WHEREAS, Plaintiff and Defendants have communicated about how best to efficiently litigate this Derivative Action in light of the pending Federal Securities Actions;

WHEREAS, based on the circumstances of the instant action, including the below agreements between the Parties, such as the Defendants' agreement to provide Plaintiff with reasonably prompt access to any discovery that may be produced in the Federal Securities Actions and/or related matters, and Defendants' agreement to provide reasonable advance notice to Plaintiff of any formal or informal mediation that may occur in the Federal Securities Actions and not to object to Plaintiff's participation therein, the Parties agree that it is in the best interests of the Company to temporarily stay this action, as set forth below;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by Plaintiff and Defendants, through their undersigned counsel of record, and subject to the approval of the Court, as follows:

1. This Derivative Action, including all deadlines and hearings, is hereby temporarily stayed pending the anticipated consolidation of the Federal Securities Actions and entry of an order on defendants' anticipated motion to dismiss in the Federal Securities Actions;
2. Within thirty (30) days upon entry of an order on defendants' anticipated motion to dismiss in the Federal Securities Actions, the Parties shall meet and confer and submit a proposed schedule to the Court for further proceedings in this Derivative Action;
3. Notwithstanding the stay of the Derivative Action, Plaintiff may file an amended complaint during the pendency of the stay. Defendants shall be under no obligation to respond

to the current complaint or any subsequent complaint while the Derivative Action is temporarily stayed;

4. Defendants agree to promptly provide Plaintiff's counsel in this Derivative Action with copies of any written discovery materials produced by any Defendant and/or the Company, in the Federal Securities Actions, in any related derivative action or in response to any inspection demand by a Macquarie shareholder who files a related derivative action. Copies of any such written discovery materials will be provided to Plaintiff's counsel in this Derivative Action subject to the same terms and conditions under which they were produced in the Federal Securities Actions, in any related derivative action or in response to any inspection demand by a Macquarie shareholder who files a related derivative action;

5. Defendants agree to provide Plaintiff with reasonable advance notice of any mediation that takes place in regards to the Federal Securities Actions or any other factually-related derivative or shareholder action and shall not object to Plaintiff's participation therein; and

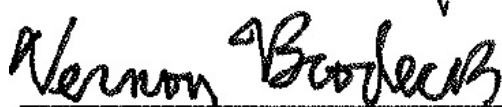
6. By entering into this Stay Stipulation, the Parties do not waive any rights not specifically addressed herein, including the right to pursue formal discovery and/or file any motion (including a motion to lift this proposed temporary stay) that any Party deems appropriate.

Dated: September 17, 2018

ROBBINS ARROYO LLP

/s/ Kevin A. Seely
KEVIN A. SEELY

SO ORDERED:



HON. VERNON S. BRODERICK 9/19/2018
UNITED STATES DISTRICT JUDGE

Dated: September 17, 2018

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Ronald Kirk, James Hooke, and William H. Webb

Dated: September 17, 2018

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/s/ Douglas Baumstein (with permission)

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CERTIFICATE OF SERVICE

I, Kevin A. Seely, hereby certify that a true and correct copy of the foregoing document was filed via the Court's ECF system and will be electronically served on all counsel of record.

I further certify that I caused to be served a copy of the document by electronic mail upon the following:

JOHN E. SCHREIBER
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Attorney for Individual Defendants Liam Stewart, Jay A. Davis, Richard D. Courtney, Martin Stanley, Norman H. Brown, Jr., George W. Carmany, III, H.E. Lentz, Ouma Sananikone, Ronald Kirk, James Hooke, and William H. Webb

DOUGLAS BAUMSTEIN
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Attorney for Nominal Defendant Macquarie Infrastructure Corporation

Dated: September 17, 2018

/s/ Kevin A. Seely

KEVIN A. SEELY